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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/835,887  | 04/16/2001  | Paola Lenti          | 1011-287            | 4551             |
| 47888   | 7590        | 02/03/2005           | EXAMINER            |                  |
| HEDMAN & COSTIGAN P.C.<br>1185 AVENUE OF THE AMERICAS<br>NEW YORK, NY 10036 |             |                      | PIERCE, JEREMY R    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1771                |                  |

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                        |                  |              |  |
|------------------------|------------------|--------------|--|
| <b>Advisory Action</b> | Application No.  | Applicant(s) |  |
|                        | 09/835,887       | LENTI, PAOLA |  |
|                        | Examiner         | Art Unit     |  |
|                        | Jeremy R. Pierce | 1771         |  |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**THE REPLY FILED 14 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.** Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on 14 January 2005. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.  The proposed amendment(s) will not be entered because:

(a)  they raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  they raise the issue of new matter (see Note below);  
 (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

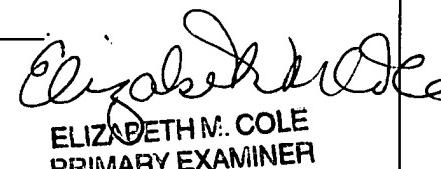
Claim(s) rejected: 24-28.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8.  The drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.

9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10.  Other: \_\_\_\_\_.

  
**ELIZABETH M. COLE**  
 PRIMARY EXAMINER

Continuation of 2. NOTE: Applicant's amendment creates a new set of claims numbered 29-31 that are substantially derived from claims 24-28. However, the new claims are not entered because there remain several 112 concerns, such as new claim 30 depending from cancelled claim 20 and new claim 29 reciting the top layer to be either woven or nonwoven, and then later reciting the top layer to be woven and dyed. Also, claim 29 raises new issues that require further consideration because claim 29 appears to incorporate limitations from old claims 24 and 26. Thus, the independent claim has more limitations than it did previously, and all of these limitations were not previously considered in conjunction with the other dependent claims.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments pertain to claims which have not been entered. Also, Applicant argues that Bender specifically states that it is not necessary to provide anti-staining treatment of his sheet material. However, Bender's discussion of staining concerns the staining that results from an underlying layer of adhesive; not the staining that occurs on the top layer of material from natural use. Applicant argues that Latzke does not teach projections and recesses on the top face of the insole. However, Applicant's claim limitations are not read that narrowly. "Projections" and "recessions" exist when the insole has a contoured shape. Latzke contains such a contoured shape..